

Note:

- This discussion draft incorporates the language contained in the ORMD's Straw Man ("draft first notice rule- - 9-15-09", distributed to stakeholders by the ORMD on September 16, 2009) into Part 410.
- All ORMD Straw Man language is shown as single underscore.
- All additions to ORMD Straw Man language are shown as double underscore. All additions to ORMD Straw Man language are also highlighted in yellow.
- Deletions are shown in ~~strike through~~.
- Language that is not underlined can be found in existing Part 410.
- This discussion draft is intended to further settlement discussions. This discussion draft does not purport to represent the official positions of any stakeholder, individually or collectively, that may have contributed to its creation.

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SUBCHAPTER c: ELECTRIC UTILITIES
PART 410
STANDARDS OF SERVICE FOR ELECTRIC UTILITIES
AND ALTERNATIVE RETAIL ELECTRIC SUPPLIERS

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SUBPART A: GENERAL

Section 410.10 Definitions

"Acceptance testing" means the approval of a group of meters based on statistical testing procedures.

"Act" means the Public Utilities Act [220 ILCS 5].

"Alternative retail electric supplier" or "ARES" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Answer time" means a measurement from the point the last digit of the entity's telephone number is dialed or, if a menu-driven system is used, from the point the last menu digit is dialed by the subscriber and the call is answered by the entity.

"Applicant" means anyone who requests a line extension from an entity providing distribution services.

"Average error" means the difference between 100% and the average percent registration as defined in Section 410.150(d).

"Billing multiplier" means the number by which a meter register reading is multiplied to obtain actual usage data. The billing multiplier shall include the transformer multiplier and meter multiplier, if applicable.

"Commission" means the Illinois Commerce Commission.

"Commission referee test" means the accuracy test of any customer's electric meter made in the presence of one or more members of Commission Staff.

"Complaint" means an objection made to an entity, by a customer or another entity, as to its charges, facilities or service, the disposal of which complaint requires investigation or analysis.

"Creep" means a continuous apparent accumulation of energy in a meter with voltage applied and the load terminals open circuited.

"Customer" has the same meaning as "retail customer."

"Demand" means the electric consumption at the point of delivery measured over a specified interval of time in order to estimate the instantaneous electric load.

"Deposit"¹ means an amount paid by an applicant to obtain or maintain service. With regard to extension of lines, "deposit" means an amount paid by an applicant for service to an entity providing distribution services that is intended to cover any line extension expenses that exceed the free limits allowed.

"Electric cooperative" means the same as that term is defined in Section 3.4 of the Electric Supplier Act [220 ILCS 30/3.4].

"Electric utility" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

"Entity" means each electric utility while providing services within its service area, each electric utility while providing electric power and energy outside its service area, any ARES providing services subject to this Part, and any electric cooperative or municipal system but only when it provides services as an ARES outside its service territory.

"Instrument transformer" means a transformer used for metering that reproduces in its secondary circuit, in a definite and known proportion, the voltage or current of its primary circuit, with the phase relation substantially preserved.

"Meter multiplier" means the number (other than 1) by which the meter register reading is multiplied to obtain meter data not adjusted for the effect of instrument transformation on the calculated amount of actual usage.

"Meter shop" means a facility containing equipment used by an entity for determining the accuracy of meters.

"Metering service" means the performance of functions related to the provision, installation, testing, maintenance, repair and reading of electric meters used for billing of retail customers and maintaining meter usage data as well as the maintenance and management of meter information and meter data with respect to those meters.

"Municipal system" means any public utility owned and operated by any political subdivision or municipal corporation of the State of Illinois, or owned by such and operated by its lessees or agents.

"Phase-shifting transformer" means an assembly of one or more transformers intended to be connected to a poly-phase circuit so as to provide voltages in the proper phase relations for energizing metering equipment.

¹ Definition of "Deposit": The existing Part 410 definition of "deposit" is limited to deposits in the context of line extensions. The proposed change above is necessitated by the provision in the ORMD Straw Man addressing possible deposits for retail electric service.

"Point of delivery" means the point at which the entity providing distribution facilities connects its lines or equipment to the lines or facilities owned or rented by the customer, without regard to the location or ownership of transformers, substations or meters, unless otherwise provided for by written contract or tariffs.

"Portable standards" means instruments (e.g., watt-hour meters, voltmeters, and ammeters) that are used outside the meter shop to test customer meters.

"Reference standards" means instruments (e.g., watt-hour meters, voltmeters, and ammeters) that are used only for verifying the accuracy of working or portable standards, and whose accuracy is traceable back to the national standard maintained by the National Institute of Standards and Technology or its successor.

"Retail customer" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

~~"Retail Electric Supplier" or "RES" includes Alternative Retail Electric Suppliers and electric utilities serving retail customers pursuant to Section 16-116 of the Act [220 ILCS 5/16-116].~~

"Retail Electric Supplier" or "RES"² shall mean either:

an Alternative Retail Electric Supplier (ARES) certified by the Illinois Commerce Commission pursuant to Section 16-115 of the Public Utilities Act [220 ILCS 5/16-115], meeting all obligations of an ARES pursuant to Section 16-115A of the Public Utilities Act [220 ILCS 5/16-115A], and authorized to provide electric power and energy supply services in an Illinois electric utility's service territory; or
an Illinois electric utility as defined in Section 16-102 of the Public Utilities Act [220 ILCS 5/16-102] meeting all obligations provided in Sections 16-115A and 16-116 of the Public Utilities Act [220 ILCS 5/16-115A and 16-116].

"Service watt-hour meter" means an electricity meter used for billing retail customers and maintaining meter usage data that measures and registers the integral, with respect to time, of the real power that flows in the circuit to which the meter is connected. This also includes meters that measure demand in watts or volt-amperes.

~~"Small commercial customer" means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].~~ a nonresidential retail customer of an electric utility who consumed 15,000 kilowatt-hours of electricity or less during the previous year. A Retail Electric Supplier may remove the customer from designation as a "small commercial customer" if the customer consumes more than 15,000 kilowatt-hours of electricity in any

² Definition of "Retail Electric Supplier" or "RES": This definition tracks verbatim from that used in IAC Part 453 Internet Enrollment Rules.

calendar year after becoming a customer of the RES. In determining whether a customer has consumed 15,000 kilowatt-hours of electricity or less during the previous year, usage by the same commercial customer shall be aggregated to include usage at the same premises even if measured by more than one meter, and to include usage at multiple premises. Nothing in this Section Part creates an affirmative obligation on an electric utility to monitor or inform customers or RESs as to a customer's status as a small commercial customer as that term is defined herein. Nothing in this Section relieves an electric utility from any obligation to provide information upon request to a customer, RES, the Commission, or others necessary to determine whether a customer meets the classification of small commercial customers as that term is defined herein.

"Test amps" means the electrical current used during meter accuracy testing as designated by the manufacturer and displayed on the meter.

"Transformer multiplier" means the product of the current transformer ratio multiplied by the potential transformer ratio when instrument transformers are part of a metering installation.

"Var-hour meter" means an electricity meter that measures and registers the integral, with respect to time, of the reactive power of the circuit in which it is connected. This includes meters that measure demand in vars.

"Working standards" means instruments (e.g., test benches and demand boards) that are used in meter shops to test the accuracy of customer meters.

Section 410.20 Application

This Part sets forth minimum requirements and shall apply to any entity in this State. This Part shall not apply to any electric cooperative nor to a municipal system when operating within its service territory. Records required by this Part shall be retained as set forth in 83 Ill. Adm. Code 420, unless longer periods of retention are stated in this Part.

Section 410.30 Exemption or Modification

Any entity may file an application requesting modification of or exemption from any Section of this Part that applies to the entity. Upon showing that the modification or exemption is economically and technically sound and will not compromise safety, reliability or the service obligations of the entity, the Commission may grant the modification or exemption. A petition for exemption or modification shall be filed pursuant to 83 Ill. Adm. Code 200 and shall set forth specific reasons and facts in support of the requested exemption or modification.

Section 410.40 Complaints

- a) Each entity shall investigate each complaint received. The receipt of all written complaints shall be acknowledged in writing or verbally.
- b) Each complaint received by an entity shall be documented, and any records required by this Part shall be made available to Commission personnel upon request. Each record shall contain, at a minimum, the name and address of the complainant, the time of day and the date received, the nature of the complaint, the result of the investigation and/or analysis, when and by whom conducted, the final disposition of the complaint, and the date of disposition.
- c) Records of complaints related to voltage regulation or accuracy of metering equipment or data, other than requests for meter rereads, shall be kept in the following manner: each entity receiving complaints shall keep an index or file containing all those complaints for 3 years, separated by year. If the entity chooses to maintain an index of complaints, it shall contain enough information to allow access to individual records of each complaint.

Section 410.45 Customer Call Centers

- a) Each entity shall maintain a customer call center where customers can reach a representative and receive current information. At least once every 6 months, each entity shall provide written information to customers explaining how to contact the call center. The average answer time for calls placed to the call center shall not exceed 60 seconds where a representative or automated system is ready to render assistance and/or accept information to process calls. The abandon rate for calls placed to the call center shall not exceed 10%. Each entity shall maintain records of the call center's telephone answer time performance and abandon call rate. These records shall be kept for a minimum of 2 years and shall be made available to Commission personnel upon request. In the event that answer times and/or abandon rates exceed the limits established above, the reporting entity may provide the Commission or its personnel with explanatory details. At a minimum, these records shall contain the following information in monthly increments:
 - 1) Total number of calls received;
 - 2) Number of calls answered;
 - 3) Average answer time;
 - 4) Number of abandoned calls; and
 - 5) Abandon call rate.

- b) Entities that do not have electronic answering capability that meets the requirements of subsection (a) shall notify the Manager of the Commission's Consumer Services Division or its successor by January 15, 2001 and work with Staff to develop individualized reporting requirements as to the call volume and responsiveness of the call center.
- c) On or before March 1 of every year, each entity shall file a report with the Chief Clerk of the Commission for the preceding calendar year on its answer time and abandon call rate for its call center as described in subsection (a). A copy of the report shall be sent to the Manager of the Consumer Services Division or its successor.

SUBPART B: ELECTRICAL METERING STANDARDS

[Intentionally left blank. No change from existing language.]

SUBPART C: CUSTOMER INFORMATION

Section 410.210 Information to Customers

- a) Bills rendered to retail customers for service shall clearly show at least the following:
 - 1) The date of the meter reading, the number of days in the billing period, the energy used, the meter constant if applicable, the type of service rendered, a complete description of the service or rate classification under which the customer receives service, and the type of reading that was used in the bill calculation (such as actual, estimated or customer reading), and, for meters for which beginning and ending meter readings are used as billing determinants, the reading of the meter at the beginning and the reading of the meter at the end of the period for which the bill is rendered.
 - 2) In the event that a bill rendered to retail customers is not based on usage derived from meter readings, the bill must indicate the period of time for which the bill is rendered, the type of service rendered, and a complete description of the service or rate classification under which the customer receives service.
 - 3) The total amount of the bill and, when applicable, the following portions that make it up, listed vertically for easy readability:
 - A) the monthly customer charge or portion thereof;
 - B) the demand charges;
 - C) the cost of energy detailed by the energy used and the price per unit for each change in the unit price;
 - D) the cost of fuel adjustment;
 - E) any other applicable adjustments (other charges not under categories of charges but relating to services, energy, or other programs provided to customers by the entity);
 - F) State tax;
 - G) municipal tax;
 - H) infrastructure maintenance fee;
 - I) transition charge; and
 - J) optional services listed separately;

- 4) The due date of the bill.
 - 5) Definitions or explanations of any abbreviations and technical words used on the bill.
 - 6) The name and the toll-free telephone number of each service provider whose services to the customer appear on the bill.
 - 7) The average use per day for the period over which the bill is rendered and for the comparable period one year earlier, and an indication of the difference in temperatures between the two periods. If this information is not available for a customer, the bill shall so state.
- b) Each entity, upon request by a customer, shall transmit at a minimum a statement of the actual consumption of energy by the customer at the customer's present billing address for each billing period during the immediately preceding 12-month period for which that customer was receiving service.
 - c) All electric utilities shall have on file with the Commission a proposed tariff under Section 9-201 of the Act [220 ILCS 5/9-201] that contains a bill form complying with the requirements of subsection (a). By June 15, 2001, all billings shall comply with the requirements of subsection (a).
 - d) As mandated by Section 8-302 of the Act [220 ILCS 5/8-302], whenever a customer for whom an electric utility provides metering service provides the utility with a written request asking the meter reader to leave a card showing these meter readings and dates, the electric utility shall have its meter reader leave a card showing these meter readings and dates.
 - e) Each electric utility shall disclose to each of its customers information about the customer's service in a clear and concise manner. The disclosure shall contain the following minimum requirements:
 - 1) A description of the rates or charges for the rate classification under which the customer receives service;
 - 2) An identification and explanation of optional or experimental rates or classifications available to customers; and
 - 3) An identification and explanation of all charges that are not related to costs incurred in service and the supply of energy to that customer.
 - f) In addition, for customers served under the residential and commercial classifications, this disclosure statement shall contain the following:

- 1) An explanation of the terms appearing on the customer's bill form; and
 - 2) An example of how to calculate a bill using the customer's existing rate.
- g) Disclosure statements shall be provided:
- 1) To each new customer, not later than 60 days after the date of commencement of service, through a billing insert, separate mailing, electronic mail if the customer has previously agreed or direct customer contact by a representative of the entity providing billing.
 - 2) To all affected customers in the event of a change in overall rate levels. The disclosure statement shall be transmitted, at a minimum, within the second complete billing cycle after the rates become effective following the issuance of a final order in any rate proceeding. If the disclosure is sent during a period in which proration occurs, a statement such as the following shall be incorporated in the text:

"This summary is being sent during a period in which proration occurs. Proration occurs when part of your bill is charged on old rates and part of your bill is charged on new rates. If an attempt is made to calculate your bill using this rate summary, your calculation will not yield the proper billing amount for this billing period, but will do so in subsequent months. We recommend that you retain this summary for future reference in computing proper billing amounts."
- h) Each ARES shall provide to all residential and small commercial customers, at least annually, a disclosure statement with the following information:
- 1) the average monthly prices; and
 - 2) the terms and conditions of the products and services sold to the customer.
- i) At least annually, each electric utility shall provide to small commercial and residential customers an identification and explanation of optional or experimental rates or classifications available to the customer.

SUBPART D: ELECTRIC SERVICE STANDARDS

[Intentionally left blank. No change from existing language.]

SUBPART E: EXTENSION OF LINES

[Intentionally left blank. No change from existing language.]

SUBPART F: MARKETING PRACTICES AND ENROLLMENT

Section 410.500 Application of Subpart F

The provisions of this Subpart shall only apply to Retail Electric Suppliers serving or seeking to serve residential or small commercial customers with the following exceptions: Sections 410.560 a), b) and c) and 410.570 shall apply to retail electric suppliers serving or seeking to serve any customer class.

Section 410.510 In-Person Marketing

- a) Sales agents who engage in door-to-door marketing contact customers in person at a location other than the RES's place of business for the purpose of selling power and energy service any product or service offered by the RES shall produce identification as soon as possible and prior to describing any products or services offered by the RES. This identification shall be visible at all times and prominently display the following:
 - 1) The sales agent's full name in reasonable size type face;
 - 2) A photograph of the sales agent;
 - 3) The trade name and logo of the RES they are representing.
- b) If a customer elects to enroll with the RES, the sales agent shall encourage the customer to read to the customer all items within the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in Section 410.730.
- c) If a fixed bill product for supply charges only is being offered, the sales agent shall explain to the customer that the fixed bill amount is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed bill amount is not the total monthly amount for electric service.
- d) If a customer's enrollment is authorized enrolls by signing a Letter of Authorization, the sales agent shall require the customer to initial the written uniform disclosure statement, of which a copy is to be left with the customer at the conclusion of the sales visit. The uniform disclosure statement can be either part of the first page of the sales contract or a separate document.
- e) If a customer's enrollment is authorized by a third party verification as a result of in-person marketing, the third party verifier shall require the customer to verbally acknowledge that he or she understands the uniform disclosure statement, and that a copy of the uniform disclosure statement was left with the customer.
- f) If the customer's enrollment is authorized on-line, the requirements of Section 410.550 shall apply.
- g) Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the sales agent or where the customer or another third party informs the sales agent of this circumstance, the sales agent shall either find another sales representative for the RES a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead, use an interpreter at the premise

or via the phone, or terminate the in-person contact with the customer. When the use of an interpreter is necessary, a form consistent with Section 2N of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2N] must be completed or the content and consent by the customer be recorded.

- h) The sales agent shall leave the premises of a customer when requested to do so by the customer or the owner or occupant of the premises.
- h) i) The sales agent shall add the person's name to the RES's "Do Not Market List" upon that person's request.

Section 410.520 Telemarketing

- a) In addition to complying with the Telephone Solicitations Act [815 ILCS 413.145]ⁱ RES sales agents who contact customers by telephone for the purpose of selling **power and energy** any product or service shall provide the sales agent's **their** name and, on request, **additional** the identification **information** number if available;
- b) Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand **and respond to the information conveyed by the sales agent or where**³, and the customer or another third party informs the RES sales agent of this circumstance, the sales agent must immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call.
- c) If a customer elects to enroll with the RES, the sales agent must read to the customer all items within the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in the uniform disclosure requirements Section 410.730.
- d) If a fixed bill product **for supply charges only** is being offered, the sales agent must explain to the customer that the fixed bill amount is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed bill amount is not the total monthly amount for electric service.
- e) If third party verification is used to authorize a customer's enrollment, the third-party verifier must require the customer to verbally acknowledge that he or she understands the uniform disclosure statement.
- f) The written disclosure statement and sales contract must be mailed to the customer within 3 business days of the utility confirmation of accepted enrollment. The uniform disclosure statement can be either part of the first page of the sales contract or a separate document.
- g) If a customer elects to enroll on-line as a result of an outbound telemarketing call, the requirements of Section 410.550 shall apply.

Section 410.530 In-bound Enrollment Calls

In the event a customer initiates a call to a RES in order to enroll for service, the RES must:

³ The added language tracks the similar language in the ORMD's draft 410.510(g).

- 1) Follow the requirements in Section 2EE of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE]ⁱⁱ
- 2) Read to the customer all the items included in the uniform disclosure statement. The minimum list of items to be included in the disclosure statement is contained in Section 410.730.
- 3) Require the customer to verbally acknowledge that he or she understands the uniform disclosure statement.
- 4) Mail the written disclosure statement and sales contract to the customer within 3 business days of the utility confirmation of accepted enrollment.

Section 410.540 Direct Mail

- a) Each RES that **solicits customers for power and energy service** ~~contacts customers for enrollment~~ by direct mail shall include a Uniform Disclosure Statement for the product or service being solicited.
- b) The Uniform Disclosure Statement shall include (at a minimum) the items listed in Section 410.730. The Uniform Disclosure Statement must be printed on a document that will stay with the customer and **that is** not required to be mailed back to the RES.
- c) ~~If a written Letter of Agency is being used to verify any subscriber charge, it shall contain a statement that the customer has read and understood the terms and conditions contained in the Uniform Disclosure Statement.~~⁴
- c) d)** If third party verification is used to obtain the customer's authorization for enrollment, the third party verifier must comply with 815 ILCS **505/2EE** ~~15~~ (Telephone Solicitations Act)⁵ ~~and require the customer to verbally acknowledge that he or she understands the uniform disclosure statement for this product.~~
- d) e)** If a customer elects to enroll on-line as a result of a **direct mail solicitation** ~~an outbound telemarketing call~~, the requirements of Section 410.550 shall apply.

Section 410.550 Online Marketing

- a) Each RES offering retail electric products to customers online shall prominently display the Uniform Disclosure Statement for any products offered without requiring the consumer to enter any personal information other than zip code, utility service territory, and/or type of service being sought (residential or commercial).
- b) The Uniform Disclosure Statement must be printable ~~in no more than a two-page format~~ and shall be available for downloading by the customer.⁶

⁴ 815 ILCS 505/2EE is fairly specific on what a written authorization can and cannot say. The deleted language does not appear to comport with the requirements of 505/2EE.

⁵ The reference to 815 ILCS 15 (Telephone Solicitations Act) does not appear to be appropriate here. TPV agents are not soliciting sales; they are verifying subscriber changes.

⁶ Section 410.550b): Suppliers do not have control over how many pages a customer's printer may use to print out the disclosure.

- c) The RES shall obtain, in accordance with 83 Illinois Administrative Code 453 and the procedures outlined below, an authorization to change RES that confirms and includes appropriate verification data by encrypted customer input on a supplier's Internet web site.
- d) The RES shall require the following customer information in an electronic authorization form:
 - 1) The customer's name;
 - 2) Confirmation that the person completing the form wants to make the supplier change;
 - 3) The customer's consent to the price of the service to be supplied and the material terms and conditions of the service being offered;
 - 4) The service address affected by the supplier switch;
 - 5) The utility account number;
 - 6) The billing address if different from service address; and
 - 7) The customer's electronic mail address.
- d) The Internet enrollment website of the RES shall, at a minimum, include:
 - 1) All items within the Uniform Disclosure Statement. The minimum list of items to be included in the disclosure statement is contained in Section 410.730;
 - 2) A statement that electronic acceptance of a sales contract is an agreement to initiate service and begin enrollment;
 - 3) A statement that if the customer is currently with a RES other than the utility, the customer should consult the sales contract and/or contact the existing supplier to learn if any early termination fees are applicable;
 - 4) A requirement that the customer accept or not accept the sales contract by clicking the appropriate box, displayed as part of the terms and conditions;
 - 5) An e-mail address where the customer can express his or her decision to rescind the sales contract.

Section 410.560 Training of Sales Agents

- a) All sales agents engaged in sales activity in Illinois to residential and small commercial customers (whether directly employed by the RES or otherwise exclusively selling the RES's service) shall be knowledgeable of the requirements contained in Subparts F through I herein and other relevant requirements contained in the Public Utilities Act, the Consumer Fraud and Deceptive Business Practices Act and the Illinois Administrative Code that pertain to the marketing and sales of electric supply service.
- b) All sales agents should be generally familiar with the types of RES's products and services offered for sale in Illinois, including the type of rates options, applicable termination fees if any, billing and payment options and other relevant aspects or rules regarding the customers' purchase of retail electricity. right to cancel. In addition, the sales agents shall have the ability to provide the customer with a toll-free number for billing questions, disputes, and complaints, as well as the Commission's toll-free phone number for complaints.

- c) A RES and its sales agents shall not utilize false, misleading, materially inaccurate, or otherwise deceptive language or materials in soliciting or providing services.
- d) A RES and its sales agents shall refrain from any direct marketing or soliciting of electric supply service to customers on the electric utility's "Do Not Market List", which the electric utility shall provide to the RES shall obtain at least monthly on the 15th calendar day of the month from the electric utility. If the 15th calendar day is a non-business day then the electric utility shall provide the RES with shall obtain the list on the next business day following the 15th calendar day of that month. The "Do Not Market List" maintained by the electric utility shall contain the customer's name, address, and phone number(s). RESs shall use the most current version of the Do Not Market List" available; however, in assessing compliance with this section, 31 days will be afforded to RESs to account for the time required by the RES to disseminate and process the list internally.

Section 410.570 Records Retention and Availability

- a) A RES must retain, for a minimum of two years or, for the length of the sales contract, whichever is longer, verifiable proof of authorization to change suppliers for each customer. Authorization records need to be provided by the RES within seven business days after a request is made by the Commission or Commission Staff.
- b) Throughout the duration of the contract, and for two years thereafter, the RES shall retain and, within seven business days of the customer's request, provide the customer a copy of the sales contract via e-mail, U.S. mail, or facsimile.

SUBPART G: Rescission, Deposits, Early Termination and Automatic Renewal of Contract

Section 410.600 Application of Subpart G

The provisions of this Subpart shall apply to retail electric suppliers serving or seeking to serve residential or small commercial customers.

Section 410.610 Rescission of sales contract

Within one business day after accepting a valid electronic enrollment request from the RES, the electric utility will notify the customer in writing of the scheduled enrollment and the name of the RES that will be providing power and energy service. If the customer wishes to rescind its enrollment with the supplier, the customer will not incur any early termination fees if the customer contacts either the electric utility or the RES within ten calendar days of the electric utility's processing acceptance of the enrollment request. If the tenth calendar day falls on a non-business day, the rescission period will be extended through the next business day. The written enrollment notice from the electric utility will state the last day for making a request to rescind the enrollment. In the event that the customer provides notice of such rescission to the electric utility, the electric utility shall notify the RES within one business day of receipt of such notice.

Section 410.620 Deposits

A RES shall not require a customer deposit if the RES is selling the receivables for power and energy for that customer to the electric utility pursuant to Section 16-118(c) of the Act.

Section 410.630 Early Termination Fee

Any agreement between a RES and a customer that contains an early termination fee shall disclose the amount of the early termination fee or the formula used to calculate the termination fee. It must also state that the early termination fee does not apply if the customer cancels the contract within the rescission period described above. In addition, any agreement that contains an early termination fee shall provide the customer the opportunity to terminate the agreement without any termination fee or penalty within 10 business days after the date of the first bill issued to the customer for products or services provided by the RES. This requirement does not relieve the customer of obligations for services rendered under the agreement prior to termination.

Section 410.640 Contract Renewal

a) Non-Automatic Renewal

The RES shall clearly disclose any renewal terms in their contract including any cancellation procedure. For contracts with an initial term of six months or greater, the RES shall send a notice of contract expiration separate from the bill at least 45 30-days prior to the date of contract expiration but no more than 90 60-days in advance of expiration. Nothing in this section shall preclude a RES from offering a new contract to

the customer at any other time during the contract period. The separate written notice of contract expiration shall include:

- 1) A statement printed or visible from the outside of the envelope or in the subject line of the email (if customer has agreed to receive official documents by e-mail) that states, "Contract Expiration Notice;"
- 2) The date the existing contract will expire⁷;
- 3) A statement in bold lettering no smaller than 12 point font that establishing service with another electric supplier can take up to 45 days, and failure to enter into a new contract or switch to another RES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable;
- 4) If the RES is offering a contract renewal, the disclosure of the terms and conditions of the renewal offer may be combined with the mailing of the contract expiration notice;
- 5) The RES must provide a full description of any renewal offers available to the customer, including the date service under the new term will begin;
- 6) Provide a statement in no smaller than 12 point font that the customer must provide affirmative consent to accept the renewal offer and that establishing service with another electric supplier can take up to 45 days, and failure to renew their existing contract or switch to another RES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable.

b) Automatic Renewal

The RES shall clearly disclose any renewal terms in their contract including any cancellation procedure. For contracts with an initial term of six months or greater, the RES shall send a notice of contract renewal separate from the bill at least ~~45~~ 30-days prior to the end of the initial contract term but no more than ~~90~~ 60-days in advance of such date. Nothing in this section shall preclude a RES from offering a new contract to the customer at any other time during the contract period. The separate written notice of contract renewal shall include:

- 1) A statement printed or visible from the outside of the envelope or in the subject line of the email (if customer has agreed to receive official documents by e-mail) that states, "Contract Renewal Notice;"
- 2) The date service under the new term will begin;⁸

⁷ Section 410.640(a)(2): Stating exact dates are hard to do since meter reading covers 3 days. Just month/year should be sufficient.

⁸ Section 410.640(b)(2): Stating exact dates are hard to do since meter reading covers 3 days. Just month/year should be sufficient.

- 3) A statement in bold lettering no smaller than 12 point font that the contract will automatically renew unless the customer cancels it including the information needed to cancel;
- 4) If the new contract term includes a termination fee, a statement that the customer has from the date of the contract renewal notice through the end of the existing contract term to notify the RES of their rejection of the new contract term to avoid incurring a termination fee under the new contract term;
- 5) Clearly disclose the contract terms including a full description of any renewal offers available to the customer;
- 6) A statement in bold lettering no smaller than 12 point font that establishing service with another electric supplier can take up to 45 days, and failure to renew their existing contract or switch to another RES by the specified date will result in the customer being reverted to the utility default service and provide in the statement the length of the utility tariff minimum stay period if applicable.

Section 410.650 Assignment ~~Assigning customers to a different RES~~

If a RES is exiting the Illinois retail electric market, surrendering or otherwise cancelling its certificate of service authority, or no longer seeking to serve certain classes of customers, the RES shall not assign the agreement to a different RES unless:

- 1) a) The new supplier is a RES,
- 2) b) The new RES is in compliance with all applicable requirements of the Commission and/or the electric utility to provide electric service;
- 3) c) The rates, terms, and conditions of the agreement being assigned do not change during the remainder of the time period covered by the agreement; provided however, the assigned agreement may be modified during the term of the agreement if the new RES and the retail customer mutually agree to such changes or revisions of the agreement after assignment of the agreement;
- 4) d) The customer is given fifteen (15) calendar days prior written notice of the assignment by the current RES; and
- 5) e) Within thirty (30) days after the assignment, the new RES provides the customer with a toll-free phone number for billing questions, disputes, and complaints.

SUBPART H: Dispute Resolution and Customer Complaint Reports

Section 410. 700 Application of Subpart H

The provisions of this Subpart shall apply to retail electric suppliers serving or seeking to serve residential or small commercial customers.

Section 410.710 Required RES Information

- a) The RES shall provide the following:
 - 1) A copy of its bill formats (if it bills customers directly rather than using utility consolidated billing);
 - 2) Standard customer contract;
 - 3) Customer complaint and resolution procedures;
 - 4) The name, telephone number and e-mail address of the company representative whom Commission employees may contact to resolve customer complaints and other matters.
- b) ~~In any dispute between a customer and a RES concerning the terms of a contract, any vagueness, obscurity, or ambiguity in the contract will be construed in favor of the customer.~~
- b)e) The supplier must file updated information within 10 business days after changes in any of the documents or information required to be filed by this section.

Section 410.720 Dispute Resolution

- a) Complaint Handling
 - 4) A residential or small commercial customer has the right to make a formal or informal complaint to the Commission, and a RES contract cannot impair this right. A RES shall not require a residential or small commercial customer as part of the terms of service to engage in alternative dispute resolution, including requiring complaints to be submitted to arbitration or mediation by third parties. A customer other than a residential or small commercial customer may agree as part of the terms of service to engage in alternative dispute resolution, including requiring complaints to be submitted to arbitration or mediation by third parties. However, nothing in this subsection is intended to prevent a customer other than a residential or small commercial customer to file an informal or formal complaint with the Commission if dissatisfied with the results of the alternative dispute resolution.
- b) Complaints to RES
 - 1) A customer or applicant for service may submit a complaint by mail, facsimile transmission, e-mail, or by telephone to a RES. The RES shall promptly investigate and advise the complainant of the results within 14 calendar days. If the RES does not respond to the customer's complaint in writing, the RES shall orally inform the customer of the ability to obtain the RES's response in

writing upon request. A customer who is dissatisfied with the RES's review shall be informed of the right to file a complaint with the Commission and the Office of Attorney General.

c) Complaints to the Commission.

1) Informal complaints.

A) If a complainant is dissatisfied with the results of a RES's complaint investigation, the RES shall inform the complainant of their ability to file a complaint with the Illinois Commerce Commission's Consumer Services Division and provide the following contact information: Illinois (toll-free) (800) 524-0795, from out-of-state (217) 782-2024, website address: www.icc.illinois.gov, TTY (800) 858-9277, fax (217) 524-6859. Complaints may be filed with the Consumer Services Division by phone, via the internet, by fax or by mail. Information required to process a customer complaint include:

- i) The customer's name, billing and service addresses, and telephone number;
- ii) The name of the RES;
- iii) The customer account number;
- iv) An explanation of the facts relevant to the complaint;
- v) The complainant's requested resolution; and
- vi) Any documentation that supports the complaint, including copies of bills or terms of service documents.

B) The Commission's Consumer Services Division may resolve a complaint via phone by completing a call between the customer, the Consumer Services staff and the supplier. If no resolution is reached by phone, and a dispute remains, an informal complaint may be sent to the RES. Three-way calling may not be available or Consumer Services staff may determine a three-way call is not the best method to handle the customer's complaint in which case an informal complaint will be sent to the RES. In the case of utility-consolidated billing and the utility purchasing the supplier's receivables, the RES shall notify the utility of any informal complaint received and the utility shall cancel disputed supplier charges and remove those charges from the customer's bill.

C) The RES shall investigate all informal complaints and advise the Commission in writing of the results of the investigation within 14 days after the complaint is forwarded to the RES.

D) The Commission shall review the complaint information and the RES's response and notify the complainant of the results of the Commission's investigation.

E) While an informal complaint process is pending:

1) The RES (or the electric utility in the case of utility-consolidated billing) shall not initiate collection activities for any disputed portion of the bill until the Commission has taken final action on the complaint.

2) A customer shall be obligated to pay any undisputed portion of the bill and the RES (or the electric utility in the case of utility-consolidated billing) may pursue collection activity for nonpayment of the undisputed portion after appropriate notice.

F) The RES shall keep a record for two years after closure by the Commission of all informal complaints forwarded to it by the Commission. This record shall show the name and address of the complainant, the date, nature and adjustment or disposition of the complaint.

2) Formal complaints.

If the complainant is not satisfied with the results of the informal complaint process, the complainant may file a formal complaint with the Commission.

3) Disclosure of RESs' level of customer complaints.

The Commission shall, on a quarterly basis, prepare a summary of all formal and informal complaints received and publish it on its World Wide Web site. The summary shall be in an easy-to-read and user friendly format. The Commission shall develop a ranking system of individual RES' complaints ratios in comparison with a RES-wide complaint ratio, as well as the associated ranking methodology.

Section 410.730 Uniform Disclosure Requirements

a) In addition to providing the customer with a copy of the sales contract, a RES must disclose the following information to the customer prior to any enrollment for electric service, regardless of the form of marketing used. The written Uniform Disclosure statement must use a font of 12 point or larger and, if a separate document, must not exceed two pages in length:

1)a) The legal name of the RES;

2)b) The RES's business address;

3)c) The RES's toll free telephone number for billing questions, disputes, and complaints;

- 4) d) The charges for the service for the length of the contract: if any charges are variable during the term of the contract, an explanation of how the variable charges are determined;
- 5) e) The length of the agreement including the automatic renewal clause, if any;
- 6) f) The presence or absence of early termination fees or penalties, and applicable amounts or the formula pursuant to which they are calculated;
- 7) g) For a customer that will not be placed on a utility's POR-UCB tariff, RES using Dual Billing or SBO, any possible requirement to pay a deposit, the estimated amount of the deposit or basis on which it is calculated, when the deposit will be returned, and if the deposit will accrue interest;
- 8) h) Any fees assessed by the RES to the applicant for switching to the RES;
- 9) i) The name of the electric service offering for which the customer is being solicited;
- 10) j) A statement that the customer may rescind the agreement within ten calendar days of the utility processing the enrollment request by calling either the RES or the utility and provide both phone numbers;
- 11) k) A statement that the RES is an independent seller of electricity and that the RES is not representing or acting on behalf of the electric utility, governmental bodies, or consumer groups;
- 12) l) A statement that the utility will continue to deliver the electricity to the customer's premise and will continue to respond to any service calls and emergencies;
- 13) m) A statement that the customer will receive written notification from the utility confirming the switch of suppliers;
- 14) n) If savings are guaranteed, or guaranteed under only certain circumstances, the RES must provide a written statement which includes a plain language description of the conditions that must be present in order for the savings to occur; and
- 15) o) For products where a customer's charges are a fixed amount per billing period for supply charges only regardless of the market price for electricity or the customer's electricity consumption during the billing period, the billing period covered. In addition, it the disclosure must state that the fixed bill amount is for supply charges only and does not include delivery service charges and applicable taxes; therefore the fixed bill amount is not the total monthly amount for electric service.

Subpart I: Enforcement

Section 410.800 Application of Subpart I

The provisions of this Subpart shall apply to retail electric suppliers serving or seeking to serve any customer class.

Section 410.810 Enforcement provisions

- a) If the Commission Staff or other party believes that a RES has repeatedly violated any applicable the requirements contained in Sections 410.500 - 410.730, the following additional expedited procedures may be used to enforce these requirements that apply to the RES. However, the complainant, the respondent, and the Commission may mutually agree to adjust the procedures established below. No complaint may be filed under this provision until the complainant has first notified the respondent of the alleged violation and offered the respondent 48 hours to correct the situation.
- 1) Reasonable discovery specific to the issue of the complaint may commence upon filing of the complaint. Requests for discovery must be served in hand and responses to discovery must be provided in hand to the requester within 14 days after a request for discovery is made.
 - 2) An answer and any other responsive pleading to the complaint shall be filed with the Commission and served in hand upon the complainant within 7 days after the date on which the complaint is filed.
 - 3) A pre-hearing conference shall be held within 14 days after the date on which the complaint is filed.
 - 4) The hearing shall commence within 30 days of the date on which the complaint is filed. The hearing may be conducted by a hearing examiner or by an arbitrator. Parties shall be entitled to present evidence and legal argument in oral or written form as deemed appropriate by the hearing examiner or arbitrator. The hearing examiner or arbitrator shall issue a written decision within 60 days after the date on which the complaint is filed. The decision shall include reasons for the disposition of the complaint and, if a repeated violation is found, directions and a deadline for correction of the violation.
 - 5) Any party may file a petition requesting the Commission to review the decision of the hearing examiner or arbitrator within 5 days of such decision. Any party may file a response to a petition for review within 3 business days after actual service of the petition. After the time for filing of the petition for review, but no later than 15 days after the decision of the hearing examiner or arbitrator, the Commission shall decide to adopt the decision of the hearing examiner or arbitrator or shall issue its own final order.

- 6) The complainant may include in its complaint a request for an order for emergency relief. The Commission, acting through its designated hearing examiner or arbitrator, shall act upon such a request within 2 business days of the filing of the complaint. An order for emergency relief may be granted, without an evidentiary hearing, upon a verified factual showing that the party seeking relief will likely succeed on the merits and that the order is in the public interest. An order for emergency relief shall include a finding that the requirements of this subsection have been fulfilled and shall specify the directives that must be fulfilled by the respondent and deadlines for meeting those directives. The decision of the hearing examiner or arbitrator to grant or deny emergency relief shall be considered an order of the Commission unless the Commission enters its own order within 2 calendar days of the decision of the hearing examiner or arbitrator. Any action required by an emergency relief order must be technically feasible and economically reasonable and the respondent must be given a reasonable period of time to comply with the order.
- 7) In determining the appropriate consequence for a violation, the Commission may take into account the nature, the circumstances, including the scope of harm to individual customers, and the gravity of the violation, as well as the RES's history of previous violations.
- 8) Consequences for violating one or more of the requirements above may include one or more of the following restrictions on a RES's opportunity to sell electricity to retail customers:
 - A) Suspension from **the ability to serve retail customers** a specific Commission approved retail program in either a specific utility service territory or all of Illinois;
 - B) Suspension of the ability to enroll new customers in either a specific utility service territory or all of Illinois;
 - C) Imposition of a requirement to record all telephonic marketing presentations, which shall be made available to Commission Staff for review;
 - D) Reimbursements to customers who did not receive savings promised in the RES's sales contract/uniform disclosure statement or substantially demonstrated to have been included in the RES's marketing materials or to customers who incurred costs as a result of the RES's failure to comply with the requirements set forth above;
 - E) Release of customers from sales contracts without imposition of early termination fees;
 - F) Revocation of a RES's eligibility **and certification** to operate in Illinois;
 - G) Any other measures that the Commission may deem appropriate.
 - H) Consequences imposed pursuant to this paragraph shall continue to apply until the RES's failure to comply has been cured or the omission or Commission Staff has determined that no further cure is necessary.

- b) A party shall not bring or defend a proceeding brought under this Subpart or assert or dispute an issue in a proceeding brought under this Subpart, unless there is a non-frivolous basis for doing so. By presenting a pleading, written motion, or other paper in complaint or defense of the actions or inactions of a party under this Subpart, a party is certifying to the Commission that to the best of that party's knowledge, information, and belief, formed after a reasonable inquiry of the subject matter of the complaint or defense, that the complaint or defense is well grounded in law and fact, and under the circumstances:
 - 1) it is not being presented to harass the other party, cause unnecessary delay in the provision of competitive electric supply services to customers, or create needless increases in the cost of litigation; and
 - 2) the allegations and other factual contentions have evidentiary support, or if specifically so identified, are likely to have evidentiary support after reasonable opportunity for further investigation or discovery as defined herein.
- c) If, after notice and a reasonable opportunity to respond, the Commission determines that subsection (b) has been violated, the Commission shall impose appropriate sanctions upon the party or parties that have violated subsection (b) or are responsible for the violation. The sanctions shall be not more than \$30,000, plus the amount of expenses accrued by the commission for conducting the hearing. Payment of sanctions imposed under this section shall be made to the Common School Fund within 30 days of imposition of such sanctions.
- d) In the event of any conflict between these Sections and the requirements for RESs provided in electric utility tariffs on file with the Commission as of the effective date of this Part, this Section shall control.

End Notes

ⁱ (815 ILCS 413/) Telephone Solicitations Act.

(815 ILCS 413/1)

Sec. 1. Short title. This Act may be cited as the Telephone Solicitations Act.

(Source: P.A. 88-288.)

(815 ILCS 413/5)

Sec. 5. Definitions. For purposes of this Act:

"Caller ID" means the display to the recipient of the call of the caller's telephone number or identity.

"Emergency telephone number" means any telephone number which accesses or calls a fire department, law enforcement agency, ambulance, hospital, medical center, poison control center, rape crisis center, suicide prevention center, rescue service, the 911 emergency access number provided by law enforcement agencies and police departments.

"Subscriber" means:

- (1) A person who has subscribed to telephone service from a telephone company; or
- (2) Other persons living or residing with the subscribing person.

"Telephone solicitation" means any communication through the use of a telephone by live operators for soliciting the sale of goods or services.

(Source: P.A. 95-331, eff. 8-21-07.)

(815 ILCS 413/10)

Sec. 10. Jurisdiction. No person shall solicit the sale of goods or services in this State except in accordance with this Act. The provisions of this Act shall not apply to telecommunications carriers as defined in Article XIII of the Public Utilities Act or to any bank, trust company, savings and loan association, credit union, licensee under the Consumer Installment Loan Act, licensed insurer, licensee under the Real Estate License Act of 2000, or any affiliate, subsidiary, employee, or agent of any such entities.

(Source: P.A. 90-541, eff. 6-1-98; 91-245, eff. 12-31-99.)

(815 ILCS 413/15)

Sec. 15. Method of operation.

(a) No person shall solicit the sale of goods or services in this State by placing a telephone call during the hours between 9 p.m. and 8 a.m.

(b) A live operator soliciting the sale of goods or services shall:

- (1) immediately state his or her name, the name of the business or organization being represented, and the purpose of the call; and
- (2) inquire at the beginning of the call whether the person called consents to the solicitation; and
- (3) if the person called requests to be taken off

the contact list of the business or organization, the operator must refrain from calling that person again and take all steps necessary to have that person's name and telephone number removed from the contact records of the business or organization so that the person will not be contacted again by the business or organization. Compliance with Section 310.4(b) of the Federal Trade Commission's Telemarketing Sales Rule shall constitute compliance with this subsection (b)(3) of this Section.

(c) A person may not solicit the sale of goods or services by telephone in a manner that impedes the function of any caller ID when the telephone solicitor's service or equipment is capable of allowing the display of the solicitor's telephone number.

(Source: P.A. 90-541, eff. 6-1-98; 91-182, eff. 1-1-00.)

(815 ILCS 413/20)

Sec. 20. Exemptions.

(a) Except as provided in subsection (b), the provisions of this Act shall not apply to telephone calls made by an autodialer. The provisions of this Act do not apply to telephone calls made by a person who is a registered dealer, registered investment adviser, or registered salesperson under Section 8 of the Illinois Securities Law of 1953 or who is registered as a broker-dealer, registered representative, or salesperson of a broker-dealer under the federal securities laws, when performing acts within the scope of that registration.

(b) Notwithstanding the provisions of subsection (a), all telephone calls must be made in compliance with the requirements of subsection (c) of Section 15.

(Source: P.A. 91-182, eff. 1-1-00.)

(815 ILCS 413/23)

Sec. 23. Limited exemption.

(a) Except as provided in subsection (b), the provisions of this Act shall not apply to any licensed insurance company, its licensed employees or agents when performing acts within the scope of their licenses in relation to existing customers or policyholders, or employees of licensed agents.

(b) Notwithstanding the provisions of subsection (a), all telephone calls must be made in compliance with the requirements of subsection (c) of Section 15.

(Source: P.A. 91-182, eff. 1-1-00.)

(815 ILCS 413/25)

Sec. 25. Violations.

(a) It is a violation of this Act to make or cause to be made telephone calls to any emergency telephone number as defined in Section 5 of this Act. It is a violation of this Act to make or cause to be made telephone calls in a manner that does not comply with Section 15.

(b) It is a violation of this Act to continue with a solicitation placed by a live operator without the consent of the called party.

(c) It is an unlawful act or practice and a violation of this Act for any person engaged in telephone solicitation to obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or other account or on a bond without the person's express written consent.

(d) Enforcement by customer. Any customer injured by a violation of this Act may bring an action for the recovery of damages. Judgment may be entered for 3 times the amount at which the actual damages are assessed, plus costs and reasonable attorney fees.

(e) Enforcement by Attorney General. Violation of any of the provisions of this Act is an unlawful practice under Section 2Z of the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General by that Act shall be available to him for the enforcement of this Act. In any action brought by the Attorney General to enforce this Act, the court may order that persons who incurred actual damages be awarded the amount at which actual damages are assessed.

(Source: P.A. 91-182, eff. 1-1-00; 91-761, eff. 1-1-01.)

(815 ILCS 413/30)

Sec. 30. (Amendatory provisions; text omitted).

(Source: P.A. 88-288; text omitted.)

ⁱⁱ (815 ILCS 505/2EE)

Sec. 2EE. Electric service provider selection. An electric service provider shall not submit or execute a change in a subscriber's selection of a provider of electric service unless and until (i) the provider first discloses all material terms and conditions of the offer to the subscriber; (ii) the provider has obtained the subscriber's express agreement to accept the offer after the disclosure of all material terms and conditions of the offer; and (iii) the provider has confirmed the request for a change in accordance with one of the following procedures:

(a) The new electric service provider has obtained the subscriber's written or electronically signed authorization in a form that meets the following requirements:

(1) An electric service provider shall obtain any necessary written or electronically signed authorization from a subscriber for a change in electric service by using a letter of agency as specified in this Section. Any letter of agency that does not conform with this Section is invalid.

(2) The letter of agency shall be a separate document (an easily separable document containing only the authorization language described in subparagraph (a)(5) of this Section) whose sole purpose is to authorize an electric service provider change. The letter of agency must be signed and dated by the subscriber requesting the electric service provider change.

(3) The letter of agency shall not be combined with inducements of any kind on the same document.

(4) Notwithstanding subparagraphs (a)(1) and (a)(2) of this Section, the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in subparagraph (a)(5) of this Section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the face of the check, a notice that the consumer is authorizing an electric service provider change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed with a print of sufficient size to be clearly legible, and must contain clear and unambiguous language that confirms:

(i) The subscriber's billing name and address;

(ii) The decision to change the electric service provider from the current provider to the prospective provider;

(iii) The terms, conditions, and nature of the service to be provided to the subscriber must be clearly and conspicuously disclosed, in writing, and an electric service provider must directly establish the rates for the service contracted for by the subscriber; and

(iv) That the subscriber understand that any electric service provider selection the subscriber chooses may involve a charge to the subscriber for changing the subscriber's electric service provider.

(6) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current electric service provider.

(7) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

(b) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in this subsection (b), the subscriber's oral authorization to change electric suppliers that confirms and includes appropriate verification data. The independent third party (i) must not be owned, managed, controlled, or directed by the supplier or the supplier's marketing agent; (ii) must not have any financial incentive to confirm supplier change requests for the supplier or the supplier's marketing agent; and (iii) must operate in a location physically separate from the supplier or the supplier's marketing agent.

Automated third-party verification systems and 3-way conference calls may be used for verification purposes so long as the other requirements of this subsection (b) are satisfied.

A supplier or supplier's sales representative initiating a 3-way conference call or a call through an automated verification system must drop off the call once the 3-way connection has been established.

All third-party verification methods shall elicit, at a minimum, the following information: (i) the identity of the subscriber; (ii) confirmation that the person on the call is authorized to make the supplier change; (iii) confirmation that the person on the call wants to make the supplier change; (iv) the names of the suppliers affected by the change; (v) the service address of the supply to be switched; and (vi) the price of the service to be supplied and the material terms and conditions of the service being offered, including whether any early termination fees apply. Third-party verifiers may not market the supplier's services by providing additional information, including information regarding procedures to block or otherwise freeze an account against further changes.

All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Submitting suppliers shall maintain and preserve audio records of verification of subscriber authorization for a minimum period of 2 years after obtaining the verification. Automated systems must provide consumers with an option to speak with a live person at any time during the call.

(c) When a subscriber initiates the call to the prospective electric supplier, in order to enroll the subscriber as a customer, the prospective electric supplier must, with the consent of the customer, make a date-stamped, time-stamped audio recording that elicits, at a minimum, the following information:

- (1) the identity of the subscriber;
 - (2) confirmation that the person on the call is authorized to make the supplier change;
 - (3) confirmation that the person on the call wants to make the supplier change;
 - (4) the names of the suppliers affected by the change;
 - (5) the service address of the supply to be switched;
- and

(6) the price of the service to be supplied and the material terms and conditions of the service being offered, including whether any early termination fees apply.

Submitting suppliers shall maintain and preserve the audio records containing the information set forth above for a minimum period of 2 years.

(d) Complaints may be filed with the Illinois Commerce Commission under this Section by a subscriber whose electric service has been provided by an electric service supplier in a manner not in compliance with this Section. If, after notice and hearing, the Commission finds that an electric service provider has violated this Section, the Commission may in its discretion do any one or more of the following:

- (1) Require the violating electric service provider to refund to the subscriber charges collected in excess of those that would have been charged by the subscriber's authorized electric service provider.
- (2) Require the violating electric service provider to pay to the subscriber's authorized electric supplier the amount the authorized electric supplier would have collected for the electric service. The Commission is authorized to reduce this payment by any amount already paid by the violating electric supplier to the subscriber's authorized provider for electric service.
- (3) Require the violating electric subscriber to pay a fine of up to \$1,000 into the Public Utility Fund for each repeated and intentional violation of this Section.
- (4) Issue a cease and desist order.
- (5) For a pattern of violation of this Section or for intentionally violating a cease and desist order, revoke the violating provider's certificate of service authority.

(e) For purposes of this Section, "electric service provider" shall have the meaning given that phrase in Section 6.5 of the Attorney General Act.

(Source: P.A. 95-700, eff. 11-9-07.)